

Basic Rules for Recordkeeping

Thoughtful and detailed recordkeeping, and safe storage of those records, is essential to a sound easement stewardship program. Recordkeeping occurs at several stages of stewardship: baseline documentation, monitoring, enforcement, and at various decision-making stages. Key principles about recordkeeping are summarized here.

Key records to keep include the following:

- ! Full baseline documentation file.
- ! Monitoring records, including correspondence with the property owner, photos, maps.
- ! Final documentation of action on property owner requests for approval to exercise reserved rights.
- ! Final documentation of exercised reserved rights.
- ! Documentation of violations and their resolution.
- ! Documentation of action on amendment requests.
- ! Documentation relating to the interpretation of any of the easement's terms.

In keeping these records, consider these recommendations.

Use archival quality materials. It is important to use materials that help ensure your records will last. Some easement holders recommend using acid-free paper and archival quality storage sleeves for photos. Opinions differ as to whether negatives, prints, or slides are most stable, but proper storage in a cool, dry place is essential regardless. Archival quality processing is available for some types of film.

Store records in a safe place. Store original records in a safe, fireproof location, such as a bank safe deposit box or fireproof file. If videotapes are used, protect them from magnetic or electrical disturbance. Be sure key people in the organization know where the records are stored and can get access to them if necessary. For LCIP properties we provide additional safe-keeping for materials sent to us.

Use standard forms tailored for your needs. Design and use standard forms for routine stewardship needs, such as baseline documentation checklists, easement summaries, and monitoring inspection forms. These will help ensure that all the necessary data are collected, and that future stewards can interpret the records and continue to collect consistent data.

Sign and date photos, notes, and recordkeeping forms. Besides helping your successors get back to the source if they have questions about an easement file, this also helps establish the file as legally admissible evidence.

If you have many easements, consider using a computer database. A few organizations with many easements have begun to keep some of their records, such as property information and monitoring history, on a computerized database. As an organization accumulates easements, the database may become increasingly useful to track the regular monitoring schedule and flag easements that need special attention.

Provide for continuity. The file for each easement should be sufficiently self-explanatory so that a new steward can understand the easement's terms, history of acquisition and monitoring, and any enforcement actions or property owner issues, and thus take up stewardship activities wherever they were left off. Every individual who adds records to an easement file should keep future stewards in mind. Records need to be sufficiently explicit and thorough to make sense to the steward in charge 20 years from now.

Keep records that can stand up in court Your records must be sufficient to provide the basis for defending an easement in court. Since few easements have gone to court, there is little experience from which to define minimum legal standards for recordkeeping. Clearly, however, too much recordkeeping is better than too little. Easement holders that have litigated easement violations observe that clear recordkeeping, good photos, and excellent baseline documentation made their day in court much easier. Thorough records help establish who caused a violation, when it occurred, and what damage it caused. Good records place you in a sound position for negotiating with the violator for reparation. They also prove to the court and the public that you are doing your job. It is a good idea to go over the requirements of admissible evidence in your jurisdiction with a knowledgeable attorney, to make sure your recordkeeping will be adequate for use in court. If a serious violation occurs, consult a lawyer to make sure your legal interests are covered and proper records of enforcement actions are kept. It is never too late to upgrade recordkeeping, even for older easement files. As easement holders learn through experience, they often add written information or photos to old, inadequate files, while setting higher standards for new stewardship records.